

ESTTA Tracking number: **ESTTA501427**

Filing date: **10/22/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Robert A Green		
Entity	Individual	Citizenship	UNITED STATES
Address	8000 W. Sunset Blvd, Suite B-120 Los Angeles, CA 90046 UNITED STATES		

Attorney information	Charles Tolbert Law Offices of Charles Tolbert 244 Fifth Avenue, Suite 200 New York, NY 10001 UNITED STATES cgtt@charlestolbert.com Phone:212-769-7980
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Applicant Information

Application No	85617221	Publication date	10/09/2012
Opposition Filing Date	10/22/2012	Opposition Period Ends	11/08/2012
Applicants	Schlesinger, Joshua 3710 NW 53 ST Boca Raton, FL 33496 UNITED STATES LeBlanc, Trevor 3710 NW 53 ST Boca Raton, FL 33496 UNITED STATES		


Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary food supplements; Protein supplement shakes
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	The mark conflicts with the common law trademark "Bodyfactory" previously registered under serial number 78076597 and currently pending for new registration under serial number 85649291 which has been in use in commerce since at least 1997.

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85649291	Application Date	06/12/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BODYFACTORY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/04/17 First Use In Commerce: 1997/04/17 Retail store services featuring products for the home, personal goods, health, fitness, and nutritional items		

U.S. Registration No.	2591735	Application Date	07/31/2001
Registration Date	07/09/2002	Foreign Priority Date	NONE
Word Mark	BODYFACTORY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/04/17 First Use In Commerce: 1997/04/17 Retail store services featuring health fitness products such as yoga mats, protein powders, health drinks, thermogenics, cycling apparel, workout gear and workout machines; maintaining a health and fitness professionals' registry Class 041. First use: First Use: 1997/04/17 First Use In Commerce: 1997/04/17 Health clubs featuring health fitness services such as yoga, spinning, personal training, dance, group fitness classes and workout centers Class 042. First use: First Use: 1997/04/17 First Use In Commerce: 1997/04/17 Medical services in the field of sports medicine, chiropractic services and physical rehabilitation		

Attachments	85649291#TMSN.jpeg (1 page)(bytes) oppositionBodyFactory85617221.pdf (1 page)(56662 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/ctolbert/
Name	Charles Tolbert
Date	10/22/2012

Notice of Opposition

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK
TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85617221
For the mark **Body Factory**
Published in the Official Gazette

Robert Ashley Green

v.

Trevor LeBlanc and Joshua Schlesinger

OPPOSITION ARGUMENT

Robert Ashley Green, BodyFactory, 8000 W. Sunset Boulevard, Suite B-120 Los
Angeles CALIFORNIA 90046; Pending Trademark No. 85649291

The above-identified opposer believes that he will be significantly damaged by registration of the
mark shown in the above-identified application No. 85617221, and hereby opposes the same.

The grounds for opposition are as follows:

Robert Ashley Green has consistently used his trademark BodyFactory in commerce since 1997 in
the same category of goods as those of the applicant as reflected in opposer's current pending
application. Note that opposer had a previously registered mark for BodyFactory under registration
number 78076597 which lapsed from registration but has nevertheless been used on a continuous
basis since 1997 in commerce in connection with dietary and fitness products marketed, distributed
and sold in California and promoted nationwide.

By: **Charles Tolbert, Attorney of Record**

Date: October 22, 2012